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APPENDIX A.

Extracts from the Constitution of Ohio and the Workmen's Compensation Act of Ohio.

Article II, Section 35 of the Constitution of Ohio.

For the purpose of providing compensation to workmen and their dependents, for death, injuries or occupational disease, occasioned in the course of such workmen's employment, laws may be passed establishing a state fund to be created by compulsory contribution thereto by employers, and administered by the state, determining the terms and conditions upon which payment shall be made therefrom. Such compensation shall be in lieu of all other rights to compensation, or damages, for such death, injuries, or occupational disease, and any employer who pays the premium or compensation provided by law, passed in accordance herewith, shall not be liable to respond in damages at common law or by statute for such death, injuries or occupational disease. Laws may be passed establishing a board which may be empowered to classify all occupations, according to their degree of hazard, to fix rates of contribution to such fund according to such classification, and to collect, administer and distribute such fund, and to determine all rights of claimants thereto. Such board shall set aside as a separate fund such proportion of the contributions paid by employers as in its judgment may be necessary, not to exceed one per centum thereof in any year, and so as to equalize, in so far as possible, the burden thereof, to be expended by such board in such manner as may be provided by law for the investigation and prevention of industrial accidents and diseases.

Such board shall have full power and authority to hear and determine whether or not an injury, disease or death resulted because of the failure of the employer to comply with any specific requirement for the protection of the lives, health or safety of employes, enacted by the General Assembly or in the form of an order adopted by such board, and its decision shall be final; and for the purpose of such investigations and inquiries it may appoint referees. When it is found, upon hearing, that an injury, disease or death resulted because of such failure by the employer, such amount as shall be found to be just, not greater than fifty nor less than fifteen per centum of the maximum award established by law, shall be added by the board, to the amount of the compensation that may be awarded on account of such injury, disease, or death, and paid in like manner as other awards; and, if such compensation is paid from the state fund, the premium of such employer shall be increased in such amount, covering such period of time as may be fixed, as will recoup the state fund in the amount of such additional award, notwithstanding any and all other provisions in this constitution.

Article IV, Section 2 of the Constitution of Ohio.

The supreme court shall, until otherwise provided by law, consist of a chief justice and six judges, and the judges now in office in that court shall continue therein until the end of the terms for which they were respectively elected, unless they are removed, die or resign. A majority of the supreme court shall be necessary to constitute a quorum or to pronounce a decision, except as hereinafter provided. It shall have original jurisdiction in quo warranto, mandamus, habeas corpus, prohibition and procedendo, and appellate jurisdiction in all cases involving

questions arising under the constitution of the United States or of this state, in cases of felony on leave first obtained, and in cases which originated in the courts of appeals, and such revisory jurisdiction of the proceedings of administrative officers as may be conferred by law. It shall hold at least one term in each year at the seat of government, and such other terms, there or elsewhere, as may be provided by law. The judges of the supreme court shall be elected by the electors of the state at large for such term, not less than six years, as may be prescribed by law, and they shall be elected, and their official term shall begin, at such time as may now or hereafter be fixed by law. Whenever the judges of the supreme court shall be equally divided in opinion as to the merits of any case before them and are unable for that reason to agree upon a judgment, that fact shall be entered upon the record and such entry shall be held to constitute an affirmance of the judgment of the court below. No law shall be held unconstitutional and void by the supreme court without the concurrence of at least all but one of the judges, except in the affirmance of a judgment of the court of appeals declaring a law unconstitutional and void. In cases of public or great general interest the supreme court may, within such limitation of time as may be prescribed by law, direct any court of appeals to certify its record to the supreme court, and may review, and affirm, modify or reverse the judgment of the court of appeals. All cases pending in the supreme court at the time of the adoption of this amendment by the people, shall proceed to judgment in the manner provided by existing law. No law shall be passed or rule made whereby any person shall be prevented from invoking the original jurisdiction of the supreme court.

Section 871-38, General Code of Ohio.

Any employer or other person in interest being dissatisfied with any order of the commission may commence an action in the supreme court of Ohio, against the commission as defendant to set aside, vacate or amend any such order on the ground that the order is unreasonable or unlawful and the supreme court is hereby authorized and vested with exclusive jurisdiction to hear and determine such action. The commission shall be served with summons as in other civil cases.

The answer of the commission shall be filed within ten days after service of summons upon it and with its answer it shall file a certified transcript of its record in said matter. Upon the filing of said answer said action shall be at issue and shall be advanced and assigned for trial by the court, upon the application of either party, at the earliest possible date.

Section 1465-44, General Code of Ohio.

The board shall adopt reasonable and proper rules to govern its procedure, regulate and provide for the kind and character of notices, and the services thereof, in cases of accident and injury to employes, the nature and extent of the proofs and evidence, and the method of taking and furnishing the same, to establish the right to benefits of compensation from the state insurance fund, hereinafter provided for, the forms of application of those claiming to be entitled to benefits or compensation therefrom, the method of making investigations, physical examinations and inspections, and prescribe the time within which adjudications and awards shall be made.

Section 1465-53, General Code of Ohio.

The industrial commission of Ohio shall classify occupations or industries with respect to their degree of hazard, and determine the risks of the different classes and fix the rates of premium of the risks of the same, based upon the total payroll in each of said classes of occupation or industry sufficiently large to provide an adequate fund for the compensation provided for in this act, and to maintain a state insurance fund from year to year, provided, however, that where the payroll cannot be obtained or, in the opinion of the commission, is not an adequate measure for determining the premium to be paid for the degree of hazard, the commission may determine the rates of premium upon such oher basis, consistent with insurance principles, as shall be equitable in view of the degree of hazard, and whenever in this sub-chapter reference is made to payroll or expenditure of wages with reference to fixing premiums such reference shall be construed to have been made also to such other basis for fixing the rates of premium as the commission may in the foregoing instances determine. Nothing herein shall be construed to prohibit the industrial commission from establishing a minimum premium for different classes, which minimum premium shall be the lowest advance or adjusted premium amount for which a certificate entitling the employer to protection under the workmen's compensation law may be issued, for a six months' period or any part thereof, regardless of payroll amount and notwithstanding any of the provisions of section 1465-55, paragraph 3.

Section 1465-61, General Code of Ohio.

The term "employee," "workman" and "operative" as used in this act shall be construed to mean:

1. Every person in the service of the state, or of any county, city, township, incorporated village or school district therein, including regular members of lawfully constituted police and fire departments of cities and villages, under any appointment or contract of hire, express or implied, oral or written, except any official of the state, or of any county, city, township, incorporated village or school district therein. Provided that nothing in this act shall apply to police or firemen in cities where the injured policemen or firemen are eligible to participate in any policemen's or firemen's pension funds which are now or hereafter may be established and maintained by municipal authority under existing laws, unless the amount of the pension funds provided by municipal taxation and paid to such police or firemen shall be less than they would have received had the municipality no such pension funds provided by law; in which event such police and firemen shall be entitled to receive the regular state compensation provided for police and firemen in municipalities where no policemen's or firemen's pension funds have been created under the law; less, however, the sum or sums received by the said policemen or firemen from said pension funds provided by municipal taxation, and the sum or sums so paid to said policemen or firemen from said pension funds shall be certified to the industrial commission of Ohio by the treasurer or other officer controlling such pension funds.

2. Every person in the service of any person, firm or private corporation, including any public service corpora-

tion, employing three or more workmen or operatives regularly in the same business, or in or about the same establishment under any contract of hire, express or implied, oral or written, including aliens and minors, but not including any person whose employment is but casual and not in the usual course of trade, business, profession or occupation of his employer.

3. Every person in the service of any independent contractor or sub-contractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the industrial commission of Ohio for his employment or occupation, or to elect to pay compensation direct to his injured and to the dependents of his killed employes, as provided in section 1465-69, General Code, shall be considered as the employe of the person who has entered into a contract, whether written or verbal with such independent contractor unless such employes, or their legal representatives or beneficiaries elect, after injury or death, to regard such independent contractor as the employer.

Section 1465-68, General Code of Ohio.

Every employee mentioned in section 1465-61, who is injured, and the dependents of such as are killed in the course of employment, wheresoever such injury has occurred, provided the same was not purposely self-inflicted, on and after January 1st, 1914, shall be entitled to receive, either directly from his employer as provided in section 1465-69, or from the state insurance fund, such compensation for loss sustained on account of such injury or death, and such medical, nurse and hospital services and medi

cines, and such amount of funeral expenses in case of death as provided by sections 1465-79 to 1465-87 inclusive.

Whenever, with respect to an employee of an employer who is subject to and has complied with the provisions of this act, there is possibility of conflict with respect to the application of workmen's compensation laws because the contract of employment is entered into and all or some portion of the work is or is to be performed in different states, the employer and the employee may agree to be bound by the laws of this state or by the laws of some other state in which all or some portion of the work of the employee is to be performed. Such agreement shall be in writing and shall be filed with the industrial commission of Ohio within ten days after it is executed and shall remain in force until terminated or modified by agreement of the parties similarly filed. If the agreement is to be bound by the laws of this state and the employer has complied with the provisions of this act, then the employee shall be entitled to compensation and benefits regardless of where the injury occurred or the disease was contracted and the rights of the employee and his dependents under the laws of this state shall be exclusive remedy against the employer on account of injury, disease or death in the course of and arising out of his employment. If the agreement is to be bound by the laws of another state and the employer has complied with the laws of that state, the rights of the employee and his dependents under the laws of that state shall be the exclusive remedy against the employer on account of injury, disease or death in the course of and arising out of his employment without regard to the place where the injury was sustained or the disease contracted.

If any employee or his dependents shall be awarded workmen's compensation benefits or shall recover damages from the employer under the laws of another state, the amount so awarded or recovered, whether paid or to be paid in future installments, shall be credited on the amount of any award of compensation or benefits made to the employee or his dependents by the industrial commission of Ohio.

If an employee is a resident of a state other than this state and is insured under the workmen's compensation act or similar acts of a state other than this state, such employee and his dependents shall not be entitled to receive compensation or benefits under the provisions of this act on account of injury, disease or death arising out of or in the course of employment while temporarily within this state and the rights of such employee and his dependents under the laws of such other state shall be the exclusive remedy against the employer on account of such injury, disease or death.

The term "injury" as used in this section and in the workmen's compensation act shall include any injury received in the course of, and arising out of, the injured employee's employment.

Section 1465-90, General Code of Ohio.

The commission shall have full power and authority to hear and determine all questions within its jurisdiction, and its decisions thereon, shall be final, except as provided in this section. The commission shall definitely and specifically pass upon each and every issue raised in the claim, necessary for a proper and complete decision thereon. In all claims for compensation on account of injury, or

death resulting therefrom, if the commission denies the right of the claimant to receive compensation or to continue to receive compensation the order of the commission shall state the ground or grounds on which the claim was denied; and if the claim was denied on any of the following grounds: that the injury was self-inflicted; that the injured person was not an employe; that the injury did not occur in the course of or arise out of the employment; that the claimant's disability is not the result of the injury; that the claimant having received compensation for the period of temporary total disability and having received the maximum amount of compensation for temporary partial disability as provided in this act, and having engaged in no gainful occupation for the period of four years prior to the decision of the commission, during which time compensation has been payable to such claimant, is not permanently and totally disabled as a result of the injury; that the death did not result from the injury; that the claimant was not legally or actually dependent upon the decedent; or that the employer was not amenable to the law; then the claimant may within thirty days after receipt of notice of such finding of the commission, file an application with the commission for a rehearing of his claim, whereupon the former action of the commission thereon shall be vacated. If the order of the commission does not state the ground or grounds on which the claim was denied, or if the order of the industrial commission is not definite in such regards, the claimant may maintain an action in mandamus against the commission in the supreme court of Ohio, and, if the final order in such proceedings directs the commission to state the ground or

grounds of its order or make the order definite as to the ground or grounds thereof, then there shall be taxed as part of the costs assessed against the commission an attorney fee in the amount of $250.00. The commission shall fix a date for rehearing of such claim and give the claimant and his employer at least one week's prior notice thereof; at said hearing, if the claimant is asking for compensation from the state fund, the attorney general, or any one or more of his assistants or special counsel who have been designated by him to act as attorney to the commission, may represent the state fund, and in the absence of the attorney general or his designated assistants or special counsel, the commission shall elect one or more of the attorneys in the employ of the industrial commission to represent the state fund. Such hearing shall be had and the evidence for and against the allowance of the claim submitted as in the trial of civil actions. The commission shall pass upon the admissibility of evidence, but either party may at the time make objection and take exception to the rulings of the commission thereon, and if the commission refuses to admit any evidence, the party offering the same shall state the nature of such evidence and the matter which such party proposes to prove thereby, and such statement shall be made a part of the record of such rehearing. Such rehearing may be continued from time to time.

If the commission, after such hearing denies the right of the claimant to receive or to continue to receive compensation it shall state the ground or grounds on which the claim was denied and if the claim was denied on any of the grounds hereinabove specifically stated then the claimant, within sixty days after receipt of notice of such action

of the commission, may file a petition in the common pleas court of the county wherein the injury was inflicted, or in the common pleas court of the county wherein the contract of employment was made in cases where the injury occurs outside the state of Ohio. If the claimant is seeking compensation from the state insurance fund, the defendant in such action shall be the industrial commission and summons shall be issued to the industrial commission and also to the attorney general. If the claimant is seeking compensation from an employer who has qualified to pay compensation direct, as provided by section 1465-69 or from an employer who has failed to comply with this act, the defendant in such action shall be such employer and summons shall issue to such employer. Further pleadings shall be had in accordance with the rules of civil procedure. The attorney general shall designate one or more of his assistants or special counsel to act as counsel for the commission and he shall call upon the prosecuting attorney of the county in which the suit is pending to render such assistance in connection therewith as he, the attorney general, may deem necessary; and if, for any reason at any stage of such proceeding, the attorney general, his assistants or special counsel do not appear for or represent and defend the commission, the commission shall select one or more of the attorneys in the employ of the industrial commission to represent the commission.

Within ten days after the filing of the answer the indutrial commission shall certify to such court a transcript of the record of such rehearing, and the court, or the jury, under the instructions of the court, if a jury is demanded, shall determine the right of the claimant to par-

ticipate or to continue to participate in such fund upon the evidence contained in such record and no other evidence; but the court may exclude from evidence such portions of the transcript which are not competent, material or relevent evidence and to which objection was made or/and exception taken at such rehearing before the commission and may admit in evidence such competent, material or relevant evidence as was excluded by the commission at such rehearing, over the objection and exception of the party offering the same. If the finding of the court or the verdict of the jury is in favor of the claimant's right to participate or to continue to participate in such fund, the court shall certify such finding or verdict to the industrial commission and the commission shall thereupon order compensation to be paid in the manner provided by this act for the payment of other awards, and such certificate of the court shall be entered in the records of judgments of such court and shall for the purpose of error proceedings, be in lieu of final judgment in such cause but notwithstanding the judgment rendered, the commission may modify or revoke a finding that the claimant is permanently and totally disabled if it finds on evidence that the claimant is thereafter capable of doing work.

No such certificate shall be placed upon the record of judgments until such certificate has been submitted to the attorney general and no entry except an entry setting forth the trial of the case and the verdict of the jury shall be placed upon the record of the court until such entry has been so submitted.

The cost of any legal proceedings, authorized by this section, including an attorney's fee to the claimant's attorney to be fixed by the trial judge, shall be taxed against

the unsuccessful party; provided, however, that such attorney fee shall not exceed twenty per cent of any award up to the sum of five hundred dollars, and 10 per cent on all amounts in excess thereof, but in no event shall such fee exceed the sum of five hundred dollars. Either party in any of such proceedings shall have the right to prosecute error as in the ordinary civil cases. Such right of rehearing before the commission and of appeal from the decision of the commission on such rehearing where such decision denies compensation to a claimant on the grounds hereinbefore specified, shall apply to a claimant in cases in which an employer is a contributor to the state insurance fund or has elected to compensate his employes directly under the provisions of section 1465-69, or has failed and neglected to comply with the provisions of section 1465-69.

APPENDIX B.

Rules of the Industrial Commission of Ohio Governing Procedure in Claims Against the State Insurance Fund and the State Occupational Disease Fund.

Rule 1—Sessions of the Commission.

Sessions of the Commission will be held regularly at the offices of the Commission in the city of Columbus, beginning at 9:00 a. m. of each business day, and continuing until the business of the day is completed.

Rule 7—Employer to Keep Record of Injury, Disability or Death.

Every employer shall keep a record of all injuries, fatal or otherwise and of all cases of disability or death resulting from occupational disease, received or contracted by his employes in the course of their employment. It is the duty of the employer to report all injuries and occupational diseases promptly to the Industrial Commission.

8—Procedure for Completing Applications for Injury or Occupational Disease.

Part I of each application for payment of compensation and/or for medical expense should first be completed by the employer, except for his signature, then Part II by the claimant, then Part III by the attending physician, who should return it to the employer to sign and mail to the Industrial Commission of Ohio, Claims Section, Columbus, Ohio.

If the employer finds, or has reasonable grounds to believe that the claimant's application, or the attending

physician's report, is not correct, he should make a statement to that effect in the space provided for "remarks" and should submit a separate report setting forth the reasons he does not believe the report of the claimant, or the attending physician to be correct, and such separate report may be attached to the original application bearing the full name of the injured or diseased employe.

The employer should in all instances co-operate with and assist the injured employe in completing his application and should see that the accident is fully described and that the nature and extent of the injury, or injuries, is fully disclosed and that the application is submitted to the Commission at the earliest possible date. If, for any reason, the employer fails, neglects, or refuses to furnish a proper form or to complete an application or to mail same to the Industrial Commission, a proper form should be secured from the Industrial Commission and the claimant may complete his application thereon and state that the employer has failed, neglected, or refused to furnish or complete a proper application. Such application should then be mailed promptly to the Industrial Commission, Claims Section, Columbus, Ohio.

In the event the injured employe is unable to complete an application for payment of compensation or medical expense on account of injury, or occupational disease, because of some physical disability, the application may be completed and filed by the employer or the next friend of the injured employe. In event of mental disability or incompetency, the application should be completed and filed by the employer, the next friend, or guardian of the employe.

Rule 12—Proof, How Made.

The proof of all claims shall be made by affidavit as far as possible, but the Commission, or any of its duly authorized representatives, shall have the right at any time, either before or after an award, to require the claimant to submit to a physical examination, or to refer the case for investigation, or for the taking of oral testimony, to determine the cause and extent of the injury or occupational disease. Depositions of witnesses may be taken and filed by a claimant or employer in accordance with Section 1465-50, G. C.

Failure on the part of the claimant to complete in detail, forms specified, or to submit other proof which may be requested, may be considered as sufficient reason to withhold action on the claim and to cancel the actuarial reserve against the claim. However, upon the filing of necessary proof the claim will be given such further consideration as may be indicated.

Rule 17—Hearing.

Claims for awards will be considered as assigned by the Commission on each week day not a legal holiday. Claimants and employers may appear before the Commission, either in person, or by a representative qualified to practice before the Commission. If no appearance is made, the claim will be heard and disposed of upon the proof on file, if sufficient, or may be continued until a future day, or indefinitely for attendance of the parties, or for the purpose of obtaining further proof or for any other justifiable reason.

The Commission may assign a claim for oral hearing before one or more of its members, or before a duly author-

ized representative or Referee of the Commission. Notice of the time and place of such oral hearing shall be given in advance to both the claimant and the employer. Both parties may be represented at such hearing, either in person, or by a representative qualified to practice before the Commission. When such deputy or Referee makes his report of such hearing, said report shall be referred to the Commission and thereupon notice shall be given to the claimant and the employer of the time and place of hearing such report. When the report of such hearing is submitted, the Commission may approve, modify or disapprove the findings or recommendations contained in such report.

Rule 18—Notice of Hearing.

When a claim is assigned for hearing, the claimant and employer shall be notified by mail of the time and place of the hearing.

When a claim for an award from the State Insurance Fund or the Occupational Disease Fund is assigned for hearing before the Commission, or a duly authorized representative, or a Referee, at least five days shall elapse between the date of mailing notice of such hearing and the date of the hearing. The right to notice as provided herein may be waived by the claimant or employer at the time of filing the application, or at any time prior to hearing.